

LS 6-0068a

OGC Has Reviewed

3 February 1956

MEMORANDUM FOR: Director of Central Intelligence

SUBJECT : Reimbursement for Dependent Travel

25X1A9a

1. The Inspector General has recommended payment of \$1,432.22 to [REDACTED] for travel performed by his family when he, the employee, did not travel. This claim had earlier been rejected on legal and administrative grounds.

2. On review I am of the opinion that the law generally applicable to Government employees was accurately stated in the earlier rejection. The question remains whether there is in this case anything which would permit invoking the wide powers of the Director over the expenditure of Agency funds.

3. There is some logic in favor of making the payment although the employee's dependents traveled long prior to his entitlement to home leave. If he had taken his home leave, the Government would have paid his travel expenses as well as those of his dependents. Yet when he did not ask the Government for his home leave and when the Government did not order him on home leave, the law, as uniformly applied, says the Government cannot pay for the dependents' travel although the over-all expense to the Government is less. Under normal circumstances this case might have been appealed to the Comptroller General who, even if he agreed with the logic, would have no discretion to grant relief and would be required to enforce the law as he saw it. It is possible that, as in the past, the Comptroller General might recommend remedial legislation although it is doubtful if such would be the case in these circumstances.

4. The Director undoubtedly has the power to pay this claim under Section 10(b) of the Central Intelligence Agency Act of 1949. As a matter of policy, however, the current Director and his predecessors have by regulation applied the rules applicable generally to Government employees, except when the requirements of this Agency put the employees in a position different from that of other Government employees. No such difference appears in this case as other Government employees have had dependents in this same area. This policy is an eminently sound one but has not, in our view, an absolutely rigid structure. Where the payment involved appears to be in the best

interest of the Government and where the legal objection is based on statutes that appear not to have contemplated the situation, there appears to be room for exercise of discretion by the Director in applying this policy. Where the travel of the dependents appears to be generally in the Government interest under the circumstances described, then it would seem most inequitable to refuse reimbursement when the Government could have paid this sum in a greater amount if the employee too had traveled. However, it can be argued that a decision in this case would be discriminating against other employees who have found themselves in the same situation but who have not pushed their claim for equitable relief but have accepted the administrative and legal rulings on the subject.

5. In your consideration of whether to make an exception in this case, and we would have no legal objection based on the foregoing, it should be remembered that the intent behind the home leave law is to provide for the re-Americanization of employees not of their dependents. Therefore, we believe that refusal of home leave by employees should be discouraged, and if it is necessary or if it is done it should be recognized that the question of reimbursement would be considered in each case and would be granted only on the determination that there is a benefit to the Government generally.

/s/
LAWRENCE R. HOUSTON
General Counsel

Att: Mem for DCI fr IG
dtd 3 Jan 53, same subject

cc: ADD/S
IG ✓
OGC Subject
Chrono.

OGC/LRH:jeb:JSW:mks